THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.NO.6794 OF 2003

O R D E R

The writ petition is filed for a writ of Mandamus declaring the proceedings of the 2nd respondent – Assistant Divisional Engineer in letter no.ADE/DPE/SKLM/F.Doc/D.No.1652/2003 dated 8.3.2003 as illegal and arbitrary.

2. Alleging that during the inspection of electrical connection Sc.No.17, Cat.III of the petitioner on 7.3.2003 at about 10.05 hours by the Assistant Engineer, Detection of Pilferage of Energy, Srikakulam along with his staff, the meter was found stuck in all three phases, though the consumer is availing supply to the Fiber Industry and Rice mill, the impugned proceedings dated 8.3.2003 was addressed by the 2nd respondent to the Inspector of Police, A.P.T.S., Srikakulam stating that the consumer was found dishonestly indulging in malpractice of energy by reconnecting the UDC service and causing loss to A.P.E.P.D.C. Limited to a tune of Rs.67,337/- and therefore, action under Section 44 of the Indian Electricity Act of 1910 was sought to be taken against the petitioner. The grievance of the petitioner is that there is no basis for the 2nd respondent to arrive to such a conclusion and that as the petitioner is denying the allegations leveled in the impugned proceedings, the matter has to be referred to the Chief Electrical Inspector.

3. No counter is filed.

4. Whether the petitioner committed any malpractice and whether the allegations leveled by the 2nd respondent in the impugned proceedings are true or not, are all disputed questions of fact, which this court cannot decide under writ jurisdiction and they have to be necessarily adjudicated by the competent authority.

5. It is brought to the notice of this court that out of the total demand of Rs.67,337/-, the petitioner had paid an amount of Rs.33,670/- on 15.3.2003 and the petitioner also paid further sum of Rs.15,000/- by virtue of the interim

orders of this court dated 17.4.2003 and the electricity supply was directed to be restored. From this it is clear that the petitioner had paid 3/4th of the demand and only a part remained unpaid and by virtue of the interim orders the power supply was already directed to be restored.

6. In view of the above facts and circumstances of the case, the writ petition is disposed of directing the petitioner to make representation to the competent authority within a period of one week from the date of receipt of a copy of this order and thereupon the competent authority of the respondent - Corporation shall consider the same by giving sufficient opportunity to the petitioner and pass appropriate orders within a period of four weeks. No costs.

AVS ----------

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